Title 24-A: MAINE INSURANCE CODE

Chapter 54-A: MAINE GUARANTEED ACCESS REINSURANCE ASSOCIATION ACT

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§3951. SHORT TITLE

This chapter may be known and cited as "the Maine Guaranteed Access Reinsurance Association Act." [2011, c. 90, Pt. B, §8 (NEW).]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW).

§3952. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2011, c. 90, Pt. B, §8 (NEW).]

1. **Association.** "Association" means the Maine Guaranteed Access Reinsurance Association under section 3953.

[2011, c. 90, Pt. B, §8 (NEW) .]

2. **Board.** "Board" means the Board of Directors of the Maine Guaranteed Access Reinsurance Association under section 3953, subsection 2.

[2011, c. 90, Pt. B, §8 (NEW) .]

3. **Covered person.** "Covered person" means an individual covered as a policyholder, participant or dependent under a plan, policy or contract of medical insurance.

[2011, c. 90, Pt. B, §8 (NEW) .]

4. **Dependent.** "Dependent" means a spouse, a domestic partner as defined in section 2832-A, subsection 1 or a child under 26 years of age.

[2011, c. 90, Pt. B, §8 (NEW) .]

5. **Health maintenance organization.** "Health maintenance organization" means an organization authorized under chapter 56 to operate a health maintenance organization in this State.

[2011, c. 90, Pt. B, §8 (NEW) .]

6. **Insurer.** "Insurer" means an entity that is authorized to write medical insurance or that provides medical insurance in this State. For the purposes of this chapter, "insurer" includes an insurance company, a nonprofit hospital and medical service organization, a fraternal benefit society, a health maintenance organization, a self-insured employer subject to state regulation as described in section 2848-A, a 3rd-party administrator, a multiple-employer welfare arrangement, a reinsurer that reinsures health insurance in this

State, a captive insurance company established pursuant to chapter 83 that insures the health coverage risks of its members, the Dirigo Health Program established in chapter 87 or any other state-sponsored health benefit program whether fully insured or self-funded.

[2011, c. 90, Pt. B, §8 (NEW) .]

7. **Medical insurance.** "Medical insurance" means a hospital and medical expense-incurred policy, nonprofit hospital and medical service plan, health maintenance organization subscriber contract or other health care plan or arrangement that pays for or furnishes medical or health care services whether by insurance or otherwise, whether sold as an individual or group policy. "Medical insurance" does not include accidental injury, specified disease, hospital indemnity, dental, vision, disability income, Medicare supplement, long-term care or other limited benefit health insurance or credit insurance; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

[2011, c. 90, Pt. B, §8 (NEW) .]

8. **Medicare.** "Medicare" means coverage under both Parts A and B of Title XVIII of the federal Social Security Act, 42 United States Code, Section 1395 et seq., as amended.

[2011, c. 90, Pt. B, §8 (NEW) .]

9. **Member insurer.** "Member insurer" means an insurer that offers individual health plans and is actively marketing individual health plans in this State.

[2011, c. 90, Pt. B, §8 (NEW) .]

10. **Producer.** "Producer" means a person who is licensed to sell health insurance in this State.

[2011, c. 90, Pt. B, §8 (NEW) .]

11. **Reinsurer.** "Reinsurer" means an insurer from whom a person providing health insurance for a resident procures insurance for itself with the insurer with respect to all or part of the medical insurance risk of the person. "Reinsurer" includes an insurer that provides employee benefits excess insurance.

[2011, c. 90, Pt. B, §8 (NEW) .]

12. **Resident.** "Resident" has the same meaning as in section 2736-C, subsection 1, paragraph C-2.

[2011, c. 90, Pt. B, §8 (NEW) .]

13. **Third-party administrator.** "Third-party administrator" means an entity that is paying or processing medical insurance claims for a resident.

[2011, c. 90, Pt. B, §8 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW).

§3953. MAINE GUARANTEED ACCESS REINSURANCE ASSOCIATION

1. **Guaranteed access reinsurance mechanism established.** The Maine Guaranteed Access Reinsurance Association is established as a nonprofit legal entity. As a condition of doing business in the State, an insurer that has issued or administered medical insurance within the previous 12 months or is

actively marketing a medical insurance policy or medical insurance administrative services in this State must participate in the association. The Dirigo Health Program established in chapter 87 and any other state-sponsored health benefit program shall also participate in the association. Except as provided in section 3962, operations of the association are suspended and the association may not collect assessments as provided in section 3957, provide reinsurance for member insurers under section 3958 or provide reimbursement for member insurers under section 3961 as of the date on which a transitional reinsurance program established under the authority of Section 1341 of the federal Affordable Care Act commences operations in this State until December 31, 2017.

[2015, c. 404, §1 (AMD) .]

2. **Board of directors.** The association is governed by the Board of Directors of the Maine Guaranteed Access Reinsurance Association established under Title 5, section 12004-G, subsection 14-H.

A. The board consists of 12 members appointed as described in this paragraph:

(1) Seven members appointed by the superintendent: 2 members chosen from the general public and who are not associated with the medical profession, a hospital , an insurer or a producer; 2 members who represent medical providers; one member who represents individual health insurance consumers who is not associated or formerly associated with the medical profession, a hospital, an insurer or a producer; one member who represents a statewide organization that represents small businesses; and one member who represents producers. A board member appointed by the superintendent may not be removed without cause; and

(2) Five members appointed by the member insurers, at least one of whom is a domestic insurer and at least one of whom is a 3rd-party administrator. [2013, c. 273, §2 (AMD).]

B. Members of the board serve for 3-year terms. Members of the board may serve up to 3 consecutive terms. [2011, c. 90, Pt. B, §8 (NEW).]

C. The board shall elect one of its members as chair. [2011, c. 90, Pt. B, §8 (NEW).]

D. Board members may be reimbursed from funds of the association for actual and necessary expenses incurred by them as members but may not otherwise be compensated for their services. [2011, c. 90, Pt. B, §8 (NEW).]

E. The board shall establish regular places and times for meetings and may meet at other times at the call of the chair. The board shall post notice of scheduled meetings, meeting agendas and minutes of meetings on a publicly accessible website maintained by the association. [2013, c. 273, §3 (NEW).]

F. The board shall establish a mechanism on its publicly accessible website for the public to submit comments on matters related to the operations of the association. [2013, c. 273, §3 (NEW).]

G. The board shall establish a process for taking public comment at selected board meetings to be held at such time and place as the board may determine. The opportunity for public comment must be made available not less often than quarterly. Except as specified in this paragraph, meetings of the board are not open to the public. [2013, c. 273, §3 (NEW).]

[2013, c. 273, §§2, 3 (AMD) .]

3. **Plan of operation; rules.** The board shall adopt a plan of operation in accordance with the requirements of this chapter and submit its articles, bylaws and operating rules to the superintendent for approval. If the board fails to adopt the plan of operation and suitable articles and bylaws within 90 days after the appointment of the board, the superintendent shall adopt rules to effectuate the requirements of

this chapter and those rules remain in effect until superseded by a plan of operation and articles and bylaws submitted by the board and approved by the superintendent. Rules adopted by the superintendent pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 90, Pt. B, §8 (NEW) .]

4. **Immunity.** A board member is not liable and is immune from suit at law or equity for any conduct performed in good faith that is within the scope of the board's jurisdiction.

[2011, c. 90, Pt. B, §8 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW). 2013, c. 273, §§1-3 (AMD). 2015, c. 404, §1 (AMD).

§3954. LIABILITY AND INDEMNIFICATION

1. **Liability.** The board and its employees may not be held liable for any obligations of the association. A cause of action may not arise against the association; the board, its agents or its employees; a member insurer or its agents, employees or producers; or the superintendent for any action or omission in the performance of powers and duties pursuant to this chapter.

[2011, c. 90, Pt. B, §8 (NEW) .]

2. **Indemnification.** The board may provide in its bylaws or rules for indemnification of, and legal representation for, its members and employees.

[2011, c. 90, Pt. B, §8 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW).

§3955. DUTIES AND POWERS OF ASSOCIATION

1. **Duties.** The association shall:

A. Establish administrative and accounting procedures for the operation of the association; [2011, c. 90, Pt. B, §8 (NEW).]

B. Select an association administrator in accordance with section 3956; [2011, c. 90, Pt. B, §8 (NEW).]

C. Collect the assessments provided in section 3957. The level of payments must be established by the board. Assessments must be collected pursuant to the plan of operation approved by the board and adopted pursuant to section 3953, subsection 3. In addition to the collection of such assessments, the association shall collect an organizational assessment or assessments from all insurers as necessary to provide for expenses that have been incurred or are estimated to be incurred before receipt of the first calendar year assessments; [2011, c. 90, Pt. B, §8 (NEW).]

D. Establish procedures for the handling and accounting of association assets; [2011, c. 90, Pt. B, §8 (NEW).]

E. Develop a health statement to be used in evaluating a person for designation for reinsurance pursuant to section 3959. Protected health information included in a health statement submitted to the association that is covered by the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, 110 Stat. 1936 or covered by chapter 24 remains confidential and is not open to public inspection; and [2011, c. 621, §2 (AMD).]

F. Provide for reinsurance for member insurers pursuant to section 3958. [2011, c. 90, Pt. B, §8 (NEW).]

[2011, c. 621, §2 (AMD) .]

2. **Powers.** The association may:

A. Exercise powers granted to nonprofit corporations under the laws of this State; [2011, c. 90, Pt. B, §8 (NEW).]

B. Enter into contracts as necessary or proper to carry out the provisions and purposes of this chapter and may, with the approval of the superintendent, enter into contracts with similar organizations of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions; [2011, c. 90, Pt. B, §8 (NEW).]

C. Sue or be sued and may take legal actions necessary or proper to recover or collect assessments provided in section 3957 due the association; [2011, c. 90, Pt. B, §8 (NEW).]

D. Take legal actions necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association, to recover any amounts erroneously or improperly paid by the association, to recover amounts paid by the association as a result of mistake of fact or law or to recover other amounts due the association; [2011, c. 90, Pt. B, §8 (NEW).]

E. Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance and any other function within the authority of the association; [2011, c. 90, Pt. B, §8 (NEW).]

F. Borrow money to effect the purposes of the association. Notes or other evidence of indebtedness of the association not in default must be legal investments for insurers and may be carried as admitted assets; [2011, c. 90, Pt. B, §8 (NEW).]

G. Provide for reinsurance of risks incurred by members of the association and purchase reinsurance retroceding those risks to the extent the board determines appropriate. The provision of reinsurance may not subject the association to any of the capital or surplus requirements, if any, otherwise applicable to reinsurers; and [2011, c. 90, Pt. B, §8 (NEW).]

H. Apply for funds or grants from public or private sources, including federal grants. [2011, c. 90, Pt. B, §8 (NEW).]

[2011, c. 90, Pt. B, §8 (NEW) .]

3. **Additional duties and powers.** The superintendent may, by rule, establish additional powers and duties of the board and may adopt such rules as are necessary and proper to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 90, Pt. B, §8 (NEW) .]

4. **Review for solvency.** An annual review of the association for solvency must be performed by an independent certified public accountant using generally accepted accounting principles. The association shall submit the annual review to the superintendent. If the superintendent determines that the funds of the association are insufficient to support the need for reinsurance, the superintendent may order the association to increase its assessments. If the superintendent determines that the funds of the association are insufficient, the superintendent may order the association to charge additional assessments.

[2011, c. 90, Pt. B, §8 (NEW) .]

5. **Annual report.** The association shall report annually to the joint standing committee of the Legislature having jurisdiction over health insurance matters by March 15th. The report must include information on the financial solvency of the association and the administrative expenses of the association.

[2011, c. 90, Pt. B, §8 (NEW) .]

6. **Audit.** The association must be audited at least annually by an independent certified public auditor. A copy of the audit must be provided to the superintendent and to the joint standing committee of the Legislature having jurisdiction over health insurance matters.

[2011, c. 90, Pt. B, §8 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW). 2011, c. 621, §2 (AMD).

§3956. SELECTION OF ADMINISTRATOR

1. **Selection of administrator.** The board shall select an insurer or 3rd-party administrator through a competitive bidding process to administer the reinsurance provided by the association.

[2011, c. 90, Pt. B, §8 (NEW) .]

2. **Contract with administrator.** The administrator selected pursuant to subsection 1 serves for a period of 3 years pursuant to a contract with the association. At least one year prior to the expiration of that 3-year period of service, the board shall invite all insurers, including the current administrator, to submit bids to serve as the administrator for the succeeding 3-year period. The board shall select the administrator for the succeeding period at least 6 months prior to the ending of the 3-year period.

[2011, c. 90, Pt. B, §8 (NEW) .]

3. **Duties of administrator.** The administrator selected pursuant to subsection 1 shall:

A. Perform all administrative functions relating to the association; [2011, c. 90, Pt. B, §8 (NEW).]

B. Submit regular reports to the board regarding the operation of the association. The frequency, content and form of the reports must be as determined by the board; [2011, c. 90, Pt. B, §8 (NEW).]

C. Following the close of each calendar year, determine reinsurance premiums less any administrative expense allowance, the expense of administration pertaining to the reinsurance operations of the association and the incurred losses of the year, and report this information to the superintendent; and [2011, c. 90, Pt. B, §8 (NEW).]

D. Pay reinsurance amounts as provided for in the plan of operation under section 3953, subsection 3. [2011, c. 90, Pt. B, §8 (NEW).]

[2011, c. 90, Pt. B, §8 (NEW) .]

4. **Payment to administrator.** The administrator selected pursuant to subsection 1 must be paid, as provided in the contract of the association under subsection 2, for its direct and indirect expenses incurred in the performance of its services. As used in this subsection, "direct and indirect expenses" includes that portion of the audited administrative costs, printing expenses, claims administration expenses, management expenses,

building overhead expenses and other actual operating and administrative expenses of the administrator that are approved by the board as allocable to the administration of the association and included in the bid specifications pursuant to subsection 1.

[2011, c. 90, Pt. B, §8 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW).

§3957. ASSESSMENTS AGAINST INSURERS

1. **Assessments.** For the purpose of providing the funds necessary to carry out the powers and duties of the association under section 3955, the board shall assess insurers at such a time and for such amounts as the board finds necessary. Assessments are due not less than 30 days after written notice to the insurers and accrue interest at 12% per annum on and after the due date.

[2011, c. 90, Pt. B, §8 (NEW) .]

2. **Maximum assessment.** The board shall assess each insurer an amount not to exceed $4 per month per covered person enrolled in medical insurance insured, reinsured or administered by the insurer. An insurer may not be assessed on policies or contracts insuring federal or state employees except for policies or contracts insuring Legislators and their dependents. For policies or contracts insuring Legislators and their dependents, Legislators shall pay the amount of the assessment to the insurer.

[2011, c. 452, §1 (AMD) .]

3. **Determination of assessment.** The board shall make reasonable efforts to ensure that each covered person is counted only once with respect to an assessment. For that purpose, the board shall require each insurer that obtains excess or stop loss insurance to include in its count of covered persons all persons whose coverage is insured, in whole or in part, through excess or stop loss coverage. The board shall allow a reinsurer to exclude from its number of covered persons those who have been counted by the primary insurer or by the primary reinsurer or primary excess or stop loss insurer for the purpose of determining its assessment under this subsection. The board may verify the amount of each insurer's assessment based on annual statements and other reports determined to be necessary by the board. The board may use any reasonable method of estimating the number of covered persons of an insurer if the specific number is not reported.

[2011, c. 90, Pt. B, §8 (NEW) .]

4. **Organizational assessments.** The board may assess insurers for the purpose of organizing the association. Organizational assessments must be equal in amount for all insurers but may not exceed $500 per insurer for all such assessments.

[2011, c. 90, Pt. B, §8 (NEW) .]

5. **Assessments to cover net losses.** In addition to the assessment described in subsections 1 to 3, the board shall assess insurers at such a time and for such amounts as the board finds necessary to cover any net loss in an amount not to exceed $2 per month per covered person enrolled in medical insurance insured, reinsured or administered by the insurer in accordance with this subsection.

A. Before April 1st of each year, the association shall determine and report to the superintendent the association's net losses for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses and an estimate of the assessments needed to cover the losses incurred by the association in the previous calendar year. [2011, c. 90, Pt. B, §8 (NEW).]

B. [2011, c. 621, §3 (RP).]

C. The association shall impose a penalty of interest on insurers for late payment of assessments. [2011, c. 90, Pt. B, §8 (NEW).]

D. An insurer may not be assessed on policies or contracts insuring federal or state employees, except for policies or contracts insuring Legislators and their dependents. Any assessment required under this subsection on policies or contracts insuring Legislators and their dependents must be paid as provided in subsection 2. [2011, c. 452, §2 (NEW).]

[2011, c. 621, §3 (AMD) .]

6. **Deferral of assessment.** An insurer may apply to the superintendent for a deferral of all or part of an assessment imposed by the association under this section. The superintendent may defer all or part of the assessment if the superintendent determines that the payment of the assessment would place the insurer in a financially impaired condition. If all or part of the assessment is deferred, the amount deferred must be assessed against other insurers in a proportionate manner consistent with this section. The insurer that receives a deferral remains liable to the association for the amount deferred and is prohibited from reinsuring any person through the association until such time as the insurer pays the assessments.

[2011, c. 90, Pt. B, §8 (NEW) .]

7. **Excess funds.** If assessments and other receipts by the association, board or administrator selected pursuant to section 3956 exceed the actual losses and administrative expenses of the association, the board shall hold the excess as interest and shall use those excess funds to offset future losses or to reduce reinsurance premiums. As used in this subsection, "future losses" includes reserves for claims incurred but not reported.

[2011, c. 90, Pt. B, §8 (NEW) .]

8. **Failure to pay assessment.** The superintendent may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of any member insurer that fails to pay an assessment. As an alternative, the superintendent may levy a penalty on any insurer that fails to pay an assessment when due. In addition, the superintendent may use any power granted to the superintendent by this Title to collect any unpaid assessment.

[2011, c. 90, Pt. B, §8 (NEW) .]

9. **Federal funding; reduction of assessment.** The board shall work collaboratively with the Dirigo Health Program established pursuant to chapter 87 to develop a proposal to access unused funds from the State's allocation from the federal preexisting condition insurance plan established pursuant to the federal Affordable Care Act to be used to fund, in part, the operations of the association. Any federal funding obtained by the association must be used to reduce the assessment of member insurers required under this section. In developing the proposal, funds necessary for the federal preexisting condition insurance plan as currently administered by Dirigo Health have priority over any funds transferred to the association.

[2011, c. 90, Pt. B, §8 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW). 2011, c. 452, §§1, 2 (AMD). 2011, c. 621, §3 (AMD).

§3958. REINSURANCE; PREMIUM RATES

1. **Reinsurance amount.** A member insurer offering an individual health plan must be reinsured by the association to the level of coverage provided in this subsection and is liable to the association for the reinsurance premium rate established in accordance with subsection 2.

A. Beginning July 1, 2012, the association shall reimburse a member insurer for claims incurred with respect to a person designated for reinsurance by the member insurer pursuant to section 3959 or 3961 after the insurer has incurred an initial level of claims for that person of $7,500 for covered benefits in a calendar year. In addition, the insurer is responsible for 10% of the next $25,000 of claims paid during a calendar year. The amount of reimbursement is 90% of the amount incurred between $7,500 and $32,500 and 100% of the amount incurred in excess of $32,500 for claims incurred in that calendar year with respect to that person. For calendar year 2012, only claims incurred on or after July 1st are considered in determining the member insurer's reimbursement. The association may annually adjust the initial level of claims and the maximum limit to be retained by the insurer to reflect increases in costs and utilization within the standard market for individual health plans within the State. The adjustments may not be less than the annual change in the Consumer Price Index for medical care services unless the superintendent approves a lower adjustment factor as requested by the association. [2011, c. 621, §4 (AMD).]

B. An insurer shall apply all managed care, utilization review, case management, preferred provider arrangements, claims processing and other methods of operation without regard to whether claims paid for coverage are reinsured under this subsection. [2011, c. 90, Pt. B, §8 (NEW).]

[2011, c. 621, §4 (AMD) .]

2. **Premium rates.** The association, as part of the plan of operation under section 3953, subsection 3, shall establish a methodology for determining premium rates to be charged member insurers to reinsure persons eligible for coverage under this chapter. The methodology must include a system for classification of persons eligible for coverage that reflects the types of case characteristics used by insurers for individual health plans pursuant to section 2736-C, together with any additional rating factors the association determines to be appropriate. The methodology must provide for the development of base reinsurance premium rates, subject to approval of the superintendent, set at levels that, together with other funds available to the association, will be sufficient to meet the anticipated costs of the association. The association shall periodically review the methodology established under this subsection and may make changes to the methodology as needed with the approval of the superintendent. The association may consider adjustments to the premium rates charged for reinsurance to reflect the use of effective cost containment and managed care arrangements by an insurer.

[2011, c. 621, §5 (AMD) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW). 2011, c. 621, §§4, 5 (AMD).

§3959. DESIGNATION FOR REINSURANCE

1. **Designation.** The association shall provide reinsurance to a member insurer for a person designated for reinsurance by a member insurer, if the designation was made:

A. By using the health statement developed by the board pursuant to section 3955, subsection 1, paragraph E or by using the person's claims history or risk scores or any other reasonable means; [2011, c. 621, §6 (NEW).]

B. As a mandatory designation pursuant to subsection 2 on the basis of the existence or history of any medical or health condition on the list developed by the board pursuant to subsection 2; or [2011, c. 621, §6 (NEW).]

C. On the basis of an omission of material information from the health statement developed by the board pursuant to section 3955, subsection 1, paragraph E or misrepresentation of the person's health status on the health statement. [2011, c. 621, §6 (NEW).]

[2011, c. 621, §6 (AMD) .]

2. **Mandatory designation.** The board shall develop a list of medical or health conditions for which a person must be designated for reinsurance by a member insurer. If a person's health statement, claims history or risk scores demonstrate the existence or history of any medical or health conditions on the list developed by the board at the time the plan is issued or when the person is added to the plan, the member insurer shall designate the person for reinsurance. The board may amend the list from time to time as appropriate.

[2011, c. 621, §6 (AMD) .]

3. **Enrolling additional persons.** A member insurer may designate a person for reinsurance pursuant to this section when the person is added to an individual health plan.

[2011, c. 621, §6 (NEW) .]

4. **Designation effective date and premium.** The designation of a person for reinsurance is effective as of the effective date of the primary coverage provided by the member insurer, except that the earliest effective date for any reinsurance is July 1, 2012. A member insurer's premium for reinsurance begins to accrue as of the effective date of the designation.

[2011, c. 621, §6 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW). 2011, c. 621, §6 (AMD).

§3960. ACTIONS AGAINST ASSOCIATION OR INSURERS BASED UPON JOINT OR COLLECTIVE ACTIONS

Participation in the association, the establishment of reinsurance rates, forms or procedures or any other joint or collective action required by this chapter may not be the basis of any legal action or criminal or civil liability or penalty against the association or an insurer. [2011, c. 90, Pt. B, §8 (NEW).]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW).

§3961. REIMBURSEMENT OF MEMBER INSURER

1. **Reimbursement.** A member insurer may seek reimbursement from the association and the association shall reimburse the member insurer with respect to a person insured through a member insurer's closed book of business to the extent claims made by a covered person are eligible for reimbursement pursuant to section 3958, subsection 1, paragraph A, if:

A. The covered person is insured under a policy sold on or after December 1, 1993 and in force as of July 1, 2012, and the member insurer has closed its book of business for individual health plans sold between December 1, 1993 and July 1, 2012; [2011, c. 621, §7 (AMD).]

B. The member insurer is able to determine through the use of individual health statements, claims history, risk scores or any reasonable means that the covered person currently qualifies for designation by the member insurer pursuant to section 3959, subsection 1; and [2011, c. 621, §7 (AMD).]

C. The member insurer seeks to designate the covered person for reimbursement from the association by October 1, 2012. [2011, c. 621, §7 (NEW).]

This subsection applies only to the individual health plans described and is not intended to limit the ability of a member insurer to designate a covered person for reinsurance pursuant to section 3959.

[2011, c. 621, §7 (AMD) .]

1-A. **Premium.** A member insurer seeking reimbursement under subsection 1 is liable to the association for reinsurance premium rates determined in accordance with section 3958, subsection 2.

[2011, c. 621, §8 (NEW) .]

2. **Rules.** The superintendent may adopt rules to facilitate payment to a member insurer pursuant to this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 90, Pt. B, §8 (NEW) .]

SECTION HISTORY
2011, c. 90, Pt. B, §8 (NEW). 2011, c. 621, §§7, 8 (AMD).

§3962. ACTIVITIES AUTHORIZED DURING SUSPENSION PERIOD

This section governs the suspension of operations of the association during the period of suspension set forth in section 3953, subsection 1 and the authority of the association to conduct certain activities. [2015, c. 404, §2 (AMD).]

1. **Payment of claims.** The association shall pay claims eligible under sections 3958 and 3961 that were incurred prior to the commencement of the suspension of the association pursuant to section 3953, subsection 1.

[2013, c. 273, §4 (NEW) .]

2. **Additional assessment for net losses.** The association may impose any additional assessment necessary to fund net losses of the association pursuant to section 3957, subsection 5.

[2013, c. 273, §4 (NEW) .]

3. **Amended plan of operation.**

[2015, c. 404, §3 (RP) .]

4. **Exception.** This section does not apply if federal law or regulation exempts the State from participation in the transitional reinsurance program pursuant to Section 1341 of the federal Affordable Care Act.

[2013, c. 273, §4 (NEW) .]

SECTION HISTORY
2013, c. 273, §4 (NEW). 2015, c. 404, §§2, 3 (AMD).